

# **Appendix F**

## **License**

**The license document describes the arrangements and agreements between an organization (excluding Federal Agencies) and NCES for obtaining access to a restricted-use database.**

12/05/95

LICENSE FOR THE USE OF  
INDIVIDUALLY IDENTIFIABLE INFORMATION  
PROTECTED UNDER  
THE NATIONAL EDUCATION STATISTICS ACT OF 1994,  
AS AMENDED, AND THE PRIVACY ACT OF 1974

WHEREAS, the National Center for Education Statistics (NCES) in the Office of Educational Research and Improvement (OERI) of the United States Department of Education has collected individually identifiable information, the confidentiality of which is protected by the Privacy Act of 1974, 5 U.S.C. 552a, and sections 408 and 411 of the National Education Statistics Act of 1994 20 U.S.C. 9001 et seq., as amended, and

WHEREAS, NCES wishes to make the data available for statistical purposes to requestors qualified and capable of research and analysis consistent with the statistical purposes for which the data were provided, but only if the data are used and protected in accordance with the terms and conditions stated in this license, upon receipt of such assurance of qualification and capability, it is hereby agreed between

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(Insert the name of the agency or organization to be licensed)  
hereinafter referred to as the "Licensee", and NCES that:

I. INFORMATION SUBJECT TO THIS AGREEMENT

- A. All data containing individually identifiable information (including Schools in the National Assessment of Educational Progress) collected by or on the behalf of NCES under sections 408 and 411 of the National Education Statistics Act of 1994, as amended, that are provided to the Licensee and all information derived from those data, and all data resulting from merges, matches, or other uses of the data provided by NCES with other data are subject to this license and are referred to in this license as subject data.
- B. Subject data under this license may be in the form of computer tapes, diskettes, CD-ROMs, hard copy, etc. The Licensee may only use the subject data in a manner and to a purpose consistent with:
  - (1) the statistical purpose for which the data were supplied, (Licensee's description of the research and analysis which is planned is attached and made a part of this license - Attachment No. 1.)
  - (2) the limitations imposed under the provisions of this license and,
  - (3) sections 408 and 411 of the National Education Statistics Act of 1994, as amended, and 5 U.S.C. 552a, which are attached to and made a part of this license (Attachment. No 2.)

## II. INDIVIDUALS WHO MAY HAVE ACCESS TO SUBJECT DATA

- A. There are four categories of individuals that the Licensee may authorize to have access to subject data. The four categories of individuals are as follows:
  - 1. The Principal Project Officer (PPO) is the most senior officer in charge of the day-to-day operations involving the use of subject data and is responsible for liaison with NCES.
  - 2. Professional/Technical Staff (P/TS) conduct the research for which this license was issued.
  - 3. Support staff includes secretaries, typists, computer technicians, messengers, etc. Licensee may disclose subject data to support staff who come in contact with the subject data in course of their duties only to the extent necessary to support the research under this license.
  - 4. An independent researcher is an individual who has satisfied the requirements specified in paragraph II.C. of this license.
- B. Licensee may disclose subject data to only seven (7) P/TS unless NCES provides written authorization for a larger number of P/TS.
- C. Licensee may disclose subject data to individuals who desire to do independent research, under the following conditions:
  - 1. The independent researcher submits an application for access to subject data to NCES directly, or through the Licensee.
  - 2. NCES provides written approval for the Licensee to disclose subject data to the independent researcher.
  - 3. The Licensee completes the affidavit procedures in paragraph IV.B. of the license.

## III. LIMITATIONS ON DISCLOSURE

- A. Licensee shall not use or disclose subject data for any administrative purposes nor may they be applied in any manner to change the status, condition, or public perception of any individual regarding whom subject data is maintained. (Note: Federal Law pre-empts any State law that might require the reporting or dissemination of these data for any purpose other than the statistical purposes for which they were collected.)

- B. Licensee shall not disclose subject data or other information containing, or derived from, subject data at fine levels of geography, such as school district, institution, or school, to anyone other than NCES employees working in the course of their employment or individuals for whom access is authorized under this license agreement. Licensee may make disclosures of subject data to individuals other than those specified in this paragraph only if those individuals have executed an affidavit of nondisclosure and the Licensee has obtained advance written approval from NCES.
- C. Licensee shall not make any publication or other release of subject data listing information regarding individuals even if the individual identifiers have been removed.
- D. Licensee may publish the results, analysis, or other information developed as a result of any research based on subject data made available under this license only in summary or statistical form so that the identity of individuals contained in the subject data is not revealed.

#### IV. ADMINISTRATIVE REQUIREMENTS

- A. The research conducted under this license and the disclosure of subject data needed for that research must be consistent with the statistical purpose for which the data were supplied.
- B. Execution of affidavits of nondisclosure.
  - 1. Licensee shall provide a copy of this agreement, together with the attached SECURITY PROCEDURES (Attachment No. 3) to each employee of the licensee who will have access to subject data and shall require each of those employees to execute an affidavit of nondisclosure. Licensee shall also provide a copy of the attached SECURITY PROCEDURES, and the abstracted statement of the statistical purpose for which the data were supplied, to each independent researcher approved by NCES who the licensee intends to have access to subject data and shall require each of those researchers to execute an affidavit of nondisclosure.
  - 2. The Licensee must ensure that each individual who executes an affidavit of nondisclosure reads and understands the materials provided to her or him before executing the affidavit.
  - 3. Licensee shall ensure that each affidavit of nondisclosure is notarized upon execution.
  - 4. Licensee may not permit any individual specified in paragraph II.A. to have access to subject data until the procedures in paragraphs IV.B.1. through 3. of this license are fulfilled for that individual.

5. Licensee shall promptly, after the execution of each affidavit, send the original affidavit to NCES and shall maintain a copy of each affidavit at the licensee's secured facility protected under this license.
- C. Notification regarding authorized individuals to NCES.
1. Licensee shall promptly notify NCES when any employee who has been authorized to have access to subject data no longer has access to those data.
  2. If the terms of an independent researcher's application specify when the researcher's access to subject data terminates and access does terminate on that date, the Licensee need not notify NCES of that fact. However, if the researcher's access terminates on another date, the Licensee shall promptly notify NCES of the date that such access terminates.
- D. Publications made available to NCES.
1. Licensee shall provide NCES a copy of each publication containing information based on subject data or other data product based on subject data made available to individuals who have not executed an affidavit of nondisclosure.
  2. When publication or other release of research results could raise reasonable questions regarding disclosure of individually identifiable information contained in subject data, copies of the proposed publication or release must be provided to NCES before that disclosure is made so that NCES may advise whether the disclosure is authorized under this license and the provisions of sections 408 and 411 of the National Education Statistics Act of 1994, as amended, and 5 U.S.C. 552a. Licensee agrees not to publish or otherwise release research results provided to NCES if NCES advises that such disclosure is not authorized.
- E. Licensee shall notify NCES immediately upon receipt of any legal, investigatory, or other demand for disclosure of subject data.
- F. Licensee shall notify NCES immediately upon discovering any breach or suspected breach of security or any disclosure of subject data to unauthorized parties or agencies.
- G. Licensee agrees that representatives of NCES have the right to make unannounced and unscheduled inspections of the Licensee's facilities, including any associated computer center, to evaluate compliance with the terms of this license and the requirements of sections 408 and 411 of the National Education Statistics Act of 1994 and 5 U.S.C. 552a.

## V. SECURITY REQUIREMENTS

### A. Maintenance of, and access to, subject data.

1. Licensee shall retain the original version of the subject data at a single location and may make no copy or extract of the subject data available to anyone except a P/TS or independent researcher as necessary for the purpose of the statistical research for which the subject data were made available to the Licensee.
2. Licensee shall maintain subject data (whether maintained at a mainframe facility, remote terminals, personal computers, or on printed or other material) in a space that is limited to access by authorized personnel.
3. Licensee shall ensure that access to subject data maintained in computer memory is controlled by password protection. For subject data maintained on a mainframe computer, password protection is required at the file level. Licensee shall maintain all print-outs, diskettes, personal computers with subject data on hard disks, or other physical products containing individually identifiable information derived from subject data in locked cabinets, file drawers, or other secure locations when not in use.
4. Licensee shall ensure that all printouts, tabulations, and reports are edited for any possible disclosures of subject data.
5. Licensee shall establish procedures to ensure that subject data cannot be extracted from a computer mainframe, remote terminals or separate PCS by unauthorized individuals.
6. Licensee shall not permit removal of any subject data from the limited access space protected under the provisions of this license as required in the attached SECURITY PROCEDURES, without first notifying, and obtaining written approval from, NCES.

### B. Retention of subject data.

Licensee shall return to NCES all subject data, or destroy those data under NCES supervision or by approved NCES procedures when the research that is the subject of this agreement has been completed or this license terminates, whichever occurs first.

### C. Compliance with established security procedures.

Licensee shall comply with the SECURITY PROCEDURES attached to this license.

## VI. PENALTIES

- A. Any violation of the terms and conditions of this license may subject the Licensee to immediate revocation of the license by NCES.
  - 1. The NCES official responsible for liaison with the Licensee shall initiate revocation of this License by written notice to Licensee indicating the factual basis and grounds for revocation.
  - 2. Upon receipt of the notice specified in paragraph VI.A.1 of this license, the Licensee has thirty (30) days to submit written argument and evidence to the Commissioner of NCES indicating why the License should not be revoked.
  - 3. The Commissioner shall decide whether to revoke the license based solely on the information contained in the notice to the Licensee and the Licensee's response and shall provide written notice of the decision to the Licensee within forty-five (45) days after receipt of Licensee's response. The Commissioner may extend this time period for good cause.
- B. Any violation of this license may also be a violation of Federal criminal law under the Privacy Act of 1974, 5 U.S.C. 552a, and/or sections 408 and 411 of the National Education Statistics Act of 1994, 20 U.S.C. 9001 et seq., as amended. Alleged violations under the National Education Statistics Act of 1994 are subject to prosecution by the United States Attorney. The penalty for violation of sections 408 and 411 of the National Education Statistics Act of 1994, as amended, is a fine of not more than \$250,000 and imprisonment for a period of not more than five years.

## VII. PROCESSING OF THIS LICENSE

- A. The term of this license shall be for five years. If, before the expiration of this license, the Commissioner establishes regulatory standards for the issuance and content of licenses, the Licensee agrees to comply with the regulatory standards.
- B. This license may be amended, extended or terminated by mutual written agreement between the Licensee and the Commissioner, NCES. Any amendment must be signed by a Senior Official specified in paragraph VII.C. of this license, PPO, and the Commissioner and is effective on the date that all required parties have signed the amendment.
- C. The Senior Official (SO) having the authority to bind the organization to the terms of the license, shall sign this license below. The SO certifies, by his/her signature, that -

1. The organization has the authority to undertake the commitments in this license;
2. The SO has the authority to bind the organization to the provisions of this license;  
and
3. The PPO is the most senior statistical officer for the licensee who has the authority to manage the day-to-day statistical operations of the Licensee.

\_\_\_\_\_  
Signature of the Senior Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type/Print Name of Senior Official

Title: \_\_\_\_\_

Telephone: (\_\_\_\_)\_\_\_\_\_

- D. The individual described in paragraph II.A1. as the PPO shall sign this license below. If the SO also acts as the chief statistical officer for the Licensee; viz. as the PPO, the SO shall likewise sign under this paragraph as well as having signed under paragraph VII.C.

\_\_\_\_\_  
Signature of the Principal Project Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type/Print Name of Principal Project Officer

Title: \_\_\_\_\_

Telephone: (\_\_\_\_)\_\_\_\_\_

- E. If Licensee is an agency of a State or a State Contractor that provides data to any agency of a State, the Attorney General of the State shall sign this license below. The Attorney General certifies, by his/her signature, that pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, and sections 408 and 411 of the National Education Statistics Act of 1994, 20 U.S.C. 9001 et seq., as amended, the Attorney General and any successors to that office will not construe any State or local laws to require Licensee to report subject data in individually identifiable form to any agency of the State or to any individual who has not executed an affidavit of nondisclosure which prohibits that individual from using subject data for any purpose other than the statistical purpose for which the subject data were collected.

\_\_\_\_\_  
Signature of the Attorney General

\_\_\_\_\_  
Date



Type/Print Name of Attorney General

Title: \_\_\_\_\_ Telephone: (\_\_\_\_)\_\_\_\_\_

F. The Commissioner of the National Center for Education Statistics issues this license to

\_\_\_\_\_.  
The license is effective as of the date of the Commissioner ' s signature below, or such other period specified in the Licensee=s request for the license.

\_\_\_\_\_  
Commissioner, National Center for Education Statistics

\_\_\_\_\_  
Type/Print Name of Commissioner, NCES

\_\_\_\_\_  
Date

NCES License Control Number: \_\_\_\_\_